BLUE COPY FOR FILING

DEPARTMENT OF STATE A/CDC/MR
RECEIVED BY Cas. Mac DATE 10/4/82
RRS 1 or XRDS EXT. DATE
TS AUTH. REASON(S)
ENDORSE EXISTING MARKINGS
DECLASSIFIED RELEASABLE
RELEASE DENIED
FA or FOI EXEMPTIONS

The Department of State refers to Note AM/IRN/ No. 053 of the Embassy of the Democratic and Popular Republic of Algeria dated March 31, transmitting a note from the Ministry of Foreign Affairs of the Islamic Republic of Iran, and wishes to make the following observations on behalf of the United States Government:

1. The Department of the Treasury has recently received from the attorneys representing Iran information which confirms that valid service of process has been completed upon Ashraf Pahlavi in an action brought before the Supreme Court of the State of New York on March 4, 1980. Accordingly, the Treasury is taking the necessary steps to implement immediately the provisions of paragraphs 12 and 13 of the Declaration of the Government of Algeria of January 19, 1981, with respect to the assets within her control. The United States will also implement paragraph 14 of the Declaration in this case if and when the legal issues referred to in that paragraph arise in the court proceedings.

2. The United States Government is not in a position to take such measures with respect to the estate of the former Shah as the pre-conditions of such an obligation on the part of the United States, set forth in paragraph 12 of the aforesaid Declaration,

Republic of Algeria dated March 31, transmitting a note from the Ministry of Foreign Affairs of the Islamic Republic of Iran, and wishes to make the following observations on behalf of the United States Government:

1. The Department of the Treasury has recently received from the attorneys representing Iran information which confirms that valid service of process has been completed upon Ashraf Pahlavi in an action brought before the Supreme Court of the State of New York on March 4, 1980. Accordingly, the Treasury is taking the necessary steps to implement immediately the provisions of paragraphs 12 and 13 of the Declaration of the Government of Algeria of January 19, 1981, with respect to the assets within her control. The United States will also implement paragraph 14 of the Declaration in this case if and when the legal issues referred to in that paragraph arise in the court proceedings.

2. The United States Government is not in a position to take such measures with respect to the estate of the former Shah as the pre-conditions of such an obligation on the part of the United States, set forth in paragraph 12 of the aforesaid Declaration, have not yet been established. That paragraph obligates the United

UNCLASSIFIED

the United States to prohibit any transfer of property and assets in the United States within the control of the estate of the former Shah or of any close relative of the former Shah served as a defendant in U.S. litigation brought by Iran to recover such property and assets as belonging to Iran." As drafted, that text makes clear that the requirement of service of process in United States litigation applies to the assets of the former Shah as well as to those of close relatives. Moreover, it was the position of the United States from the beginning of the negotiations, ultimately accepted by Iran, that actions to be taken by the United States with respect to the Shah's assets would have to be in support of litigation brought by Iran in the United States to recover those assets as its own. This intention of the parties is made absolutely clear by the sentence in paragraph 12 which states: "As to any such defendant, including the estate of the former Shah, the freeze order will remain in effect until such litigation is finally terminated." Thus, paragraph 12 provides that the obligation of the United States to act depends upon the initiation of litigation in United States courts and terminates upon the termination of such litigation.

3. The United States Government notes, in this regard, that in the suit brought against the former Shah in the Supreme Court of the State of New York on November 28, 1979, service of process on the former Shah attempted by Iran has been challenged. The court has the

has the sole authority to determine the validity of that service and the United States Government will abide by its determination in this respect.

4. In any event, it should be noted that this issue is of symbolic significance only. There is no indication that the former Shah maintained any significant assets in the United States on or after November 3, 1979.

Department of State,

Washington, APR 7 1981

Drafted by: L - MBFeldman

Clearances: NEA - PConstable
S/P - AKeyes
Justice - DCohen
Treasury - RNewcomb
White House - FHodsoll
S/S - EDenham

APR 8 1981